

DEPARTMENT OF THE ARMY  
U.S. ARMY MILITARY DISTRICT OF WASHINGTON  
103 Third Avenue  
Fort Lesley J. McNair, DC 20319-5058

MDW Regulation  
No. 715-8

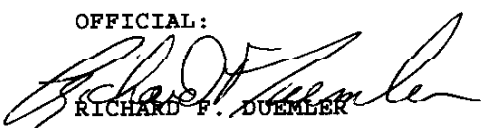
26 November 1997

Procurement  
MDW ACQUISITION INSTRUCTIONS

FOR THE COMMANDER:

RALPH R. TUCCILLO  
Colonel, GS  
Chief of Staff

OFFICIAL:

  
RICHARD F. DUEMLER  
LTC, AG  
Adjutant General

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History. The MDW Acquisition Instructions (MDWAI) was first published on 31 May 1994. This is its second publication. This publication replaces it due to the extent of the changes made.

Summary. The Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DFARS), and the Army FAR Supplement (AFARS) were revised and renumbered as a result of recently passed legislation. This revised MDWAI, issued under the authority of AFARS 1.304, implements the changes. The MDW formats are enclosed at MDWAI 53. All subsequent revisions to these instructions shall be issued by the Principal Assistant Responsible for Contracting (PARC), appointed by the Head of the Contracting Activity (HCA).

Applicability: The MDWAI applies to all contracting offices for which the Commanding General, MDW, serves as the HCA.

Suggested improvements. The proponent for this regulation is the PARC. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander, U.S. Army Military District of Washington, ATTN: ANPC, 103 Third Avenue, Fort Lesley J. McNair, DC 20319-5058.

\*This regulation supersedes MDWAI, 31 May 1994, in its entirety and rescinds MDW Forms 6-E, 11-E, 15-E, 16-E, and 18-E, April 1994.

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**PART 1--FEDERAL ACQUISITION REGULATIONS SYSTEM****SUBPART 1.1--PURPOSE, AUTHORITY, ISSUANCE****1.101 Purpose.**

The U.S. Army Military District of Washington (MDW) Acquisition Instructions (MDWAI) establish uniform guidance for MDW acquisition. The MDWAI implements the Federal Acquisition Regulations (FAR), Defense FAR Supplement (DFARS), and Army FAR Supplement (AFARS).

**SUBPART 1.2--ADMINISTRATION****1.290 Routing of documents and mailing addresses.**

(a) Any contracting action requiring Head of Contracting Activity (HCA) approval shall have the written endorsement of the garrison commander. An exception is the National Defense University (NDU), which must have the University Chief of Staff's endorsement. Submit all documents requiring HCA or higher headquarters review or approval through the Principal Assistant Responsible for Contracting (PARC), unless otherwise authorized. In those cases, furnish a copy to the PARC concurrent with dispatch to higher headquarters. Documents submitted to the PARC shall include a memorandum signed by the chief of the contracting office. Attach a legal review, as appropriate, using the format at MDWAI 53.

(b) Frequently used addresses are as follows:

(1) Commander, U.S. Army Military District of Washington, ATTN: (See below), 103 Third Avenue, Fort Lesley J. McNair, DC 20319-5058.

(i) ANPC (PARC)

(ii) ANSB [Associate Director of Small and Disadvantaged Business Utilization (ADSADBU)]

**SUBPART 1.3--AGENCY ACQUISITION REGULATIONS****1.303 Publication and codification.**

(a)(iii) The arrangement of these instructions mirrors the FAR, DFARS, and AFARS. A subsection numbered in the 100 series represents MDW guidance which supplements the regulations. To cite a part, subpart, section, or subsection, use "MDWAI" plus the number, such as "MDWAI 1.601-100."

**PART 1--FEDERAL ACQUISITION REGULATIONS SYSTEM**

**1.304 Agency control and compliance procedures.**

(a) (6) Changes to the MDWAI are made either using replacement pages or by memorandum. Replacement pages show changes with vertical lines in the margin. Memorandums either contain instructions for making pen and ink changes to existing pages or they contain interim changes. Changes are effective upon receipt, unless otherwise stated. Interim changes remain in effect until incorporated into the MDWAI permanently or rescinded.

**SUBPART 1.4--DEVIATIONS FROM THE FAR**

**1.402 Policy.**

(3) (A) Submit deviation requests to the PARC.

**1.403 Individual deviations.**

Support requests for deviation, including MDWAI deviation requests, with the data at DFARS 201.201-1(d)(i) and legal review. Submit requests not later than 7 days prior to the proposed effective date.

**SUBPART 1.6--CAREER DEVELOPMENT, CONTRACTING AUTHORITY AND RESPONSIBILITIES**

**1.601 General.**

(2) The HCA redelegates all contracting authority consistent with AFARS 1.601 to the PARC. The PARC redelegates as specified herein or on a case-by-case basis.

**1.601-100 Preparing the acquisition team.**

(a) Each contracting office shall issue acquisition guidance for requiring activities and furnish a copy to the PARC.

(b) Each contracting office shall establish a formal customer education training program and schedule responsive to customer needs.

**1.602 Contracting officers.**

**1.602-100 Business clearance procedures.**

This subsection establishes business clearance procedures. They include requests for solicitation review, business clearance, and award clearance. The formats at MDWAI 53 may be tailored and used for all requests. Business clearances shall be conducted using the Business Clearance Guide, at appendix A.

**PART 1--FEDERAL ACQUISITION REGULATIONS SYSTEM****1.602-101 Definitions.**

"Business clearance" means:

(a) For competitive acquisitions, excluding sealed bidding, review of award without discussions or review of request for best and final offers (BAFOs), and

(b) For noncompetitive acquisitions, review of the Government objective prior to commencing negotiations.

"Award clearance" means review of contract award which implements the negotiated agreement (usually noncompetitive).

**1.602 102 Request for solicitation review.**

(a) Solicitation packages requiring PARC review must contain a legal review. Allow 7 days for PARC review of a solicitation, or, in the case of a commercial activity's cost comparison, 15 days. If no response is received, the solicitation may be released on the eighth day. The contracting officer shall make every effort to incorporate recommendations, and shall respond to PARC review comments prior to contract award.

(b) The documents at Appendix A-102 shall be submitted with the solicitation for review

**1.602-103 Request for Business Clearance (RBC).**

(a) The RBC is the contracting officer's request:

(1) For competitive actions:

(i) Review of an award without holding discussions [Price Negotiation Memorandum (PNM) required];

(ii) For commercial items up to \$5 million, review of award without discussions (includes contracting officer's statement giving basis of the determination of fair and reasonable price, FAR 13);

(iii) For commercial items \$5 million or more, review of award without discussions (submit supporting documentation, FAR 15), and

(iv) Review of request for BAFOs (includes a request cover letter and any documents referenced).

(2) For noncompetitive actions, review of negotiation objectives prior to entering into negotiations [prenegotiation objective memorandum (POM) required]. Actions intended to result in issuance of a modification implementing a unilateral price determination are subject to business clearance procedures.

(b) Allow 7 days for PARC review of an RBC.

PART 1--FEDERAL ACQUISITION REGULATIONS SYSTEM

1.602-104 Request for Award Clearance (RAC).

The RAC is the contracting officer's request for review of a contract award based on the terms and conditions negotiated as clearly documented in the PNM. Award clearance is normally not required for competitive acquisitions.

1.602-105 Review thresholds.

(a) "Threshold" means the total value of the basic acquisition, plus options (including those priced on a not-to-exceed basis), or the contract ceiling, including award fee and performance incentives. While the thresholds below apply, the PARC may review any actions regardless of dollar value.

(1) For solicitations, the following review thresholds apply:

(i) \$250,000 or more for supplies and services, and \$500,000 or more for construction: PARC;

(ii) Greater than the simplified acquisition threshold (SAT) up to \$250,000: DOC, and

(iii) Within the SAT: division chief (or as determined by the DOC).

(2) For business and award clearances, the following review thresholds apply:

(i) Equal to or exceeding \$500,000: PARC;

(ii) Exceeding the SAT up to \$500,000: chief of the contracting office, and

(iii) Within the SAT: division chief (or as determined by the DOC).

(3) Any action to significantly alter or restructure the basic contract being modified shall be subject to review by the same level of authority that would be required to review that contract award.

1.602-2 Responsibilities.

(c)(iv) In addition to legal reviews required by the FAR, DFARS, and AFARS, contracting officers shall obtain legal advice concerning:

- (A) Mistakes in bids, late bids and proposals;
- (B) Termination for convenience, cure notices, show cause letters;
- (C) Software license agreements and Year 2000 issues, as needed;
- (D) Contractor responsibility, as needed;
- (E) Freedom of Information Act and Privacy Act requests;
- (F) Competitive range determinations;
- (G) Claims and dispute issues;

**PART 1--FEDERAL ACQUISITION REGULATIONS SYSTEM**

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(H) Ratifications;

(I) Contractual action involving not-to-exceed modifications;

(J) Unsolicited proposals;

(K) Performance work statements involving such environmental issues as lead-based paint abatement and asbestos removal;

(L) Any special issues, such as organizational conflicts of interest (FAR Subpart 9.5), warranties, options, patent or data rights, or liquidated damages;

(M) Best and final offers, certified cost or pricing data, and

(N) Amendments to solicitations when the basic requires legal review.  
[See MDWAI 1.602-102(a).]

**1.602-2-90 Contracting officer's representative (COR).**

Nomination of a COR shall be obtained from the director or designee of the requiring activity. The nomination memorandum shall include any information that the contracting officer deems appropriate.

(2) The COR must at a minimum have successfully completed an Army Logistics Management College COR course or comparable by either resident, on-site, or Learning Resource Center, and must obtain refresher training annually.

(5)(ii) The contracting officer shall assure that the COR is briefed on duties, limitations, and responsibilities as they pertain to the specific contract.

(6) Contracting officers shall develop and maintain a COR reporting system for CORs to account for actions taken.

**1.602-3 Ratification of unauthorized commitments.**

(b)(3) The HCA delegates the authority to approve ratification actions consistent with AFARS 1.602-3(b)(3) to the PARC and to the chief of the contracting office.

**1.602-3-90 Ratification procedures.**

(d) Ratification actions forwarded for approval must use the MDW guidance at MDWAI Appendix B. When submitting ratification packages to legal for review, include a cover memorandum signed by the chief of the contracting office.

(e) Each contracting office shall maintain a ratification log for each fiscal year and include at a minimum the organization that committed the act, brief description, dollar value, and status. Each DOC shall forward a ratification action report to the PARC biannually.

**PART 1--FEDERAL ACQUISITION REGULATIONS SYSTEM**

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**1.603 Selection, appointment, and termination of appointment.**

**1.603-1 General.**

(2) The PARC redelegates authority to appoint ordering officers to the chief of the contracting office.

(3) Only an individual assigned to an MDW contracting office shall be appointed a contracting officer within MDW.

**1.603-2 Selection.**

A request for appointment of an individual as a contracting officer shall identify the specific authority required. It shall provide sufficient information to establish how the candidate meets the criteria at FAR 1.603-2, DFARS 201.603-2, and AFARS 1.603-2, using MDW Form 10-R-E. The chief of the contracting office shall maintain a master file of all current warrants and documents supporting the appointments. Prior to selecting an individual to fill the position of chief of the contracting office or any position that could require the individual to be warranted as a contracting officer, the proposed selection shall be forwarded to the PARC for recommendation. The PARC shall have input into the job description, performance objectives, and performance ratings of the DOC.

**603-4 Termination.**

The chief of the contracting office shall submit all requests for termination of warrants to the PARC.

**1-690 Procurement management reviews.**

The Office of the PARC shall conduct procurement management reviews. Assistance visits must be requested in writing by the chief of the contracting office, stating specific areas requiring assistance.

PART 2--DEFINITION OF WORDS AND TERMS

SUBPART 2.1--DEFINITIONS

2.101 Definitions.

"A level higher than the contracting officer" means:

a. The Principal Assistant Responsible for Contracting (PARC) in those instances where the contracting officer is also the chief/director of the contracting office;

b. The chief of the contracting office where the contracting officer is the division chief, and

c. The division chief in all other instances.

"Contracting office" refers to satellite offices, such as Forts Myer and Meade, and to the MDW Acquisition Center, Fort Belvoir.

"Director of Contracting (DOC)" means the chief of the contracting office.

"MDW Acquisition Center" refers to the contracting office located at Fort Belvoir.

"Satellite office" refers to an MDW contracting office other than the Acquisition Center such as Fort Myer or Fort Meade.

**PART 3--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

**SUBPART 3.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM**

**3.602 Exceptions.**

When an exception to the policy at FAR 3.601 is required, contracting officers shall request approval from the HCA through the PARC. Requests shall:

- (a) Identify the requiring activity.
- (b) Describe the service to be purchased, estimated dollar value, and period of performance.
- (c) Identify the firm or individual involved and employment relationship with the Government.
- (d) Include justification as to why it is necessary to contract with a Government employee and why the needs of the Government can not otherwise be satisfied.
- (e) Include a statement from the requiring activity that there will be no conflict of interest (JER DOD-5500.7-R; 5 CFR Part 2635 Regulation) and that performance will not conflict with employee's Government employment.
- (f) Include a statement by the contracting officer that the proposed contract is considered proper and in compliance with FAR 37.103.
- (g) Include a legal opinion.

**PART 4--ADMINISTRATIVE MATTERS**

**SUBPART 4.2--CONTRACT DISTRIBUTION**

**4.201 Procedures.**

The Contract Distribution Record format at MDWAI 53.90-106 shall be used to record the addresses of all offices receiving copies of contracts.

**SUBPART 4.6--CONTRACT REPORTING**

**4.670 Defense Contract Action Data System (DCADS).**

**4.670-3 Contracting office responsibilities.**

Each contracting office shall appoint a point of contact for DD 350 reporting and establish procedures for the review and timely correction of all DD 350s in the automated contracting system to ensure timely submission to HQDA. All corrections must be accomplished not later than the fifth of the month following the reportable month, unless excepted. (See memorandum ANPC, dated 4 September 1996, subject: DD 350 Edit Checks within SAACONS.) Exceptions, such as duplicate report numbers, must be forwarded to the system administrator for correction not later than the fifth of each month.

**SUBPART 4.8--GOVERNMENT CONTRACT FILES**

**4.803 Contents of contract files.**

(a) The contents of contract files shall be indicated on the Contract File Index, MDW Form 17-R-E. Each file shall contain only the applicable tabs.

(b) Documents within a tab shall be filed in chronological order, with the most current document on top.

PART 5-- PUBLICIZING CONTRACT ACTIONS  
SUBPART 5.3--SYNOPSIS OF CONTRACT AWARDS

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5.303 Announcement of contract awards.

(a) Forward a copy of the information submitted to the Contract Statistics Office to the PARC.

SUBPART 5.4--RELEASE OF INFORMATION

5.404 Release of long-range acquisition estimates.

5.404-1 Release procedures.

(a) The HCA redelegates authority to release estimates to the chiefs of the contracting offices.

SUBPART 5.5--PAID ADVERTISEMENTS

5.502 Authority.

(a) The HCA redelegates authority to approve the publication of paid advertisements in newspapers to installation/activity commanders.

**PART 6--COMPETITION REQUIREMENTS**

**SUBPART 6.3--OTHER THAN FULL AND OPEN COMPETITION**

6.302 Circumstances permitting other than full and open competition.

6.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) (2) (i) (1) Determination authority is delegated to the chief of the contracting office.

6.303 Justifications.

6.303-1 Requirements.

(a) The following requiring activity certification levels and thresholds apply for justification and approvals:

(1) \$100K to \$500K Director of requiring activity

(2) \$500K to \$10M Installation garrison commander  
(or, if applicable, requiring  
activity's chief of  
staff/deputy commander or  
equivalent)

(3) \$10M to \$50M Installation garrison commander  
(or, if applicable, requiring  
activity's commander or  
equivalent)

(b) A requirement shall not be split to affect the level of review and approval.

6.303-2-90 Format of the justification review and justification and approval (J&A) documents.

Include the information from the formats at AFARS 53.9005 in all J&As, regardless of the dollar value.

**SUBPART 6.5--COMPETITION ADVOCATES**

6.501 Requirement.

The MDW SCA appoints the chief of the contracting office as the installation competition advocate (ICA). The ICA shall appoint an alternate in writing to act in the absence of the ICA due to leave, TDY, or training.

PART 6--COMPETITION REQUIREMENTS

6.502 Duties and Responsibilities.

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(b) Responsibilities of the ICA are:

(1) Seek to improve overall competition performance by removing barriers to competition.

(2) Establish and maintain files of all actions for other than full and open competition reviewed at the local level.

(3) Establish and monitor an awards program at the installation level to recognize outstanding performance in support of Army competition in contracting.

(4) Submit an annual competition report. A quarterly report consisting of the competition percentage achieved for the quarter, the dollar amounts used to compile the percentage, a list of J&As submitted during the quarter and their disposition (approved or disapproved) shall be prepared and maintained by the ICA. A copy of the quarterly report may be requested by the PARC. The annual report to the SCA is due not later than 15 November. The annual report contains the information at FAR 6.502 and AFARS 6.502(b)(i)(A-E).

PART 9--CONTRACTOR QUALIFICATIONS

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SUBPART 9.4--DEBARMENT, SUSPENSION, AND INELIGIBILITY

9.404 List of Parties Excluded from Federal Procurement and  
Nonprocurement Programs.

(c)(5) Prior to award, the contracting officer shall check the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs" and shall document the file.

PART 11--DESCRIBING AGENCY NEEDS

SUBPART 11.5--LIQUIDATED DAMAGES

11.502 Policy.

(a) The contracting officer shall obtain supporting rationale from the requiring activity for using a liquidated damages clause and developing the amount of the assessment. The information shall become a part of the contract file.

**PART 13--SIMPLIFIED ACQUISITION PROCEDURES**

**SUBPART 13.1--GENERAL**

13.106 Soliciting competition, evaluation of quotes, and award.

13.106-2 Purchases exceeding the micro-purchase threshold.

Contracting officers shall document the file in writing whenever awards estimated at between \$2,500 and \$100,000 are not issued electronically via FACNET. Paper documents, e.g., drawings or lengthy statements of work, may be sent separately.

(d)(3) Either the format at AFARS 53.9005 shall be used or a simplified standard format designed for sole source buys.

**SUBPART 13.2 - BLANKET PURCHASE AGREEMENTS (BPA)**

13.203 Clauses.

13.203-1 General.

(j)(1) BPA's shall not exceed three years.

13.204 Purchases under blanket purchase agreements.

13.204-90 Use of blanket purchase agreements.

(b) Individuals authorized to purchase under the BPA must receive training prior to placing orders.

**SUBPART 13.5--PURCHASE ORDERS**

13.502 Unpriced purchase orders (UPO).

(c) The contracting officer shall obtain the following documentation from the requiring activity:

(1) Performance work statement;

(2) Description of the equipment's performance and peculiar operating characteristics;

(3) Urgency of the repair, and

(4) "Not-to-exceed" repair cost.

These repair orders should be rotated to the maximum extent possible. The UPO shall include a government furnished property clause consistent with the estimated acquisition cost of the item being repaired.

PART 14--SEALED BIDDING

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SUBPART 14.2--SOLICITATION OF BIDS

14.213 Annual submission of representations and certifications.

(a) The chief of the contracting office shall develop procedures for using annual submission of representations and certifications instead of requesting them with each solicitation. The small and disadvantaged business utilization specialists at each contracting office are designated as the individuals responsible for performing the FAR 14.213(b) duties. Procedures shall be made available to the PARC upon request.

**PART 15--CONTRACTING BY NEGOTIATION****15.1--GENERAL REQUIREMENTS FOR NEGOTIATION****15.101 Definition.**

"Negotiations" refers to discussions of contract pricing and terms and conditions with the offeror. Entering negotiations doesn't mean fact finding with an offeror to obtain information needed to evaluate the proposal or to develop the Government objective.

**SUBPART 15.5--UNSOLICITED PROPOSALS****15.506 Agency procedures.**

(a) Each contracting office is designated as the coordinating office for unsolicited proposals (USP) relating to commodities or services for which it has contracting responsibility. Unsolicited proposals received for other commodities or services shall be referred to the appropriate office. The coordinating office shall establish and publish procedures for handling unsolicited proposals. The procedures shall be forwarded to the PARC upon completion. USPs handled by the contracting office should be coordinated with the activity whose prime mission and function best covers the areas to be evaluated in the proposal.

(b) An annual Unsolicited Proposals Report shall be submitted to the PARC not later than 10 October using the following format:

1. Reporting office:
2. Report period:
3. On hand at beginning of reporting period:
4. Received during the period:
5. Accepted during the period:
6. Rejected during the period:
7. Total dollar value of accepted proposals:
8. Reasons for not accepting the proposal.

**15.506-1 Receipt and initial review.**

(b) For proposals complying with FAR 15.506-1, the coordinating office shall acknowledge and process it within 5 working days from the day of receipt.

**15.507 Contracting methods.**

(b) If a proposal has been evaluated as having technical merit, the results of the evaluation shall be forwarded to the PARC for review before the offeror is notified and before the contracting officer commences negotiations.

**PART 15--CONTRACTING BY NEGOTIATION**

**SUBPART 15.6--SOURCE SELECTION**

**15.607 Disclosure of mistakes before award.**

(c)(3) Authority to permit correction is delegated to the chief of the contracting office.

**15.611 Best and Final Offers (BAFOs).**

(c)(i)(A) Approval to request additional BAFOs shall be forwarded to the HCA through the PARC and must fully justify the need for second or subsequent BAFOs.

(B) The DOC is the approval authority for additional BAFOs for competitive negotiated acquisitions below the business clearance thresholds established at MDWAI 1.602-103.

(ii) The chief of the contracting office shall establish a system for capturing the data at DFARS 215.611(c)(ii), and shall furnish an annual report to the PARC no later than 1 November.

**15.612 Formal source selection.**

(b)(1)(C)(2) The request for the designation of the source selection authority shall be submitted to the PARC. Nominated individuals shall be no lower than O-6 or the civilian equivalent.

**SUBPART 15.8--PRICE NEGOTIATION**

**15.803 General.**

(b)(ii) The contracting officer shall ensure that the complexity of the requiring activity's Government estimate reflects the dollar value and type of goods or services required. It shall include an explanation of how it was prepared and any assumptions made. The estimate shall be reviewed and approved by the preparer's supervisor and by one other individual which could include a technical or financial person. An estimate for services shall reflect all the elements that contribute to the contract price, such as categories and wages of labor, overhead, and general and administrative rates. A commercial item estimate shall use simpler means, such as a determination of the item's fair market value, the previous price paid by the Government, a published commercial price list, or price comparison with General Services Administration schedules.

**15.807 Prenegotiation objectives.**

Guidelines for documentation in the Prenegotiation Objective Memorandum (POM) are contained at MDWAI Appendix AA. Also, see FAR and AFARS 15.807, and DFARS 215.807.

PART 15--CONTRACTING BY NEGOTIATION

15.808 Price negotiation memorandum.

Each page of the price negotiation memorandum (PNM) shall be marked "For Official Use Only". Guidelines for preparing PNMS are contained at MDWAI Appendix AA, FAR and AFARS 15.808, and DFARS 215.808.

15.890 Follow-up on contract audit reports.

15.890-1 Responsibilities.

(b) (1) The PARC shall convene an Overage Audit Review Board when needed.

15.890-3 Reporting.

The Status Report on Specified Contract Audit Reports [RCS:DD-IG(SA) 1580] shall be submitted to the PARC semiannually and must arrive not later than 1 April and 1 October of each year.

PART 17--SPECIAL CONTRACTING METHODS

SUBPART 17.2--OPTIONS

17.204 Contracts.

(e) The PARC approval to extend a contract beyond 5 years is made on an individual basis.

17.207 Exercise of options.

(c) Prior to exercising an option, the contracting officer shall:

(1) Review the List of Parties Excluded from Federal Procurement and Nonprocurement Programs and document the file prior to exercising an option.

(2) Ensure that contractor performance is acceptable.

(d) The dollar amount reflected on award documents should include only the current fiscal year funds and contract line item numbers accepted at time of award only.

SUBPART 17.5--INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT

17.503 Determination and findings requirements.

(c)(i) The chief of the contracting office shall review and provide written coordination when requested by the requiring activity using the format at MDWAI 53.

17.504 Ordering procedures.

(d)(2) Discrepancies, errors, or recommendations shall be noted on the coordination sheet.

SUBPART 17.90--JOB ORDER CONTRACTING (JOC)

17.9004 Procedures.

17.9004-3 Ordering.

(c)(3) The documentation shall be made a part of the contract file.

17.9006 JOC ordering officers.

(a)(2) The PARC redelegates the authority to sign the appointment letter to the chief of the contracting office.

(b) The chief of the contracting office shall ensure that all JOC ordering officers receive specific training immediately upon appointment.

**PART 19--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS**  
**SUBPART 19.2--POLICIES**

**19.201 General policy.**

(d) Nominations for installation Small and Disadvantaged Utilization Specialists (SADBU) shall be submitted to the commander through the Associate Director, Small and Disadvantaged Utilization Specialist (ADSADBU). A summary of the candidate's qualifications must be included with the nomination. A candidate must have a letter of appointment prior to assuming the duties of the position.

**19.202 Specific policies.**

**19.202-5 Data collection and reporting requirements.**

(b) Each installation SADBU shall submit the following reports to the ADSADBU:

(i) Small Business and HBCU/MI statistical reports are due not later than 10 working days following the close of each quarter.

(ii) Mid-year review is due not later than 1 May of each year.

(iii) Submit a DD Form 2579, Bidder's Mailing List, and synopsis concurrently with transmission of the synopsis to the CBD. Prior to submission and transmission, the 2579 must have been reviewed and concurred with by the contracting officer and SADBU.

(iv) Quarterly Bond Waiver reports are due not later than 10 working days following the close of each quarter.

**SUBPART 19.3--DETERMINATION OF STATUS AS A SMALL BUSINESS CONCERN**

**19.302 Protesting a small business representative.**

**19.302-70 Protesting a small disadvantaged business representation.**

(d) Upon receipt of a timely protest, the contracting officer shall immediately submit a copy to the ADSADBU and the installation SADBU. This is in addition to all of the other notifications that are required. All follow-up information must also be provided.

**19.303 Determining product or service classifications.**

(c)(3) Upon notification from the Office of Hearings and Appeals of a contractor's appeal to a product or service classification, the contracting officer shall immediately notify the ADSABU and the installation SADBU and provide all follow-up information.

**PART 19--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS**  
**SUBPART 19.5--SET-ASIDES FOR SMALL BUSINESS**

**19.506 Withdrawing or modifying set-asides.**

(b) The installation SADBUs shall immediately notify the ADSADBU of disagreements regarding withdrawing or modifying set-asides. This is in addition to any other notifications that are required. All follow-up information is required.

**SUBPART 19.6--CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF ELIGIBILITY**

**19.602 Procedures.**

**19.602-1 Referral.**

(a) Upon the contracting officer determining and documenting that a responsive small business lacks certain elements of responsibility, the contracting officer shall immediately notify the installation SADBUs. The installation SADBUs shall immediately notify the ADSADBU. This is in addition to any other notifications that are required. Provide all follow-up information.

**19.602-3 Resolving differences between the agency and the Small Business Administration.**

(c)(i)(B) If the contracting officer believes that the agency should appeal the SBA decision, the contracting officer shall immediately notify the installation SADBUs and the ADSADBU. This is in addition to any other required notifications. All follow-up information is required. The contracting officer shall prepare the appeal file and submit it through the ADSADBU to the PARC for submission to the Director, Office of SADBUs.

**SUBPART 19.7--SUBCONTRACTING WITH SMALL BUSINESS, SMALL DISADVANTAGED BUSINESS, AND WOMEN-OWNED SMALL BUSINESS CONCERNS**

**19.705 Responsibilities of the contracting officer under the subcontracting assistance program.**

**19.705-4 Subcontracting plan requirements.**

(d) Any plan which is accepted with a SADBUs goal of less than five percent shall be approved by the PARC prior to acceptance. The plan with rationale and determination shall be submitted to the PARC through the ADSADBU.

**PART 19--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS**

(i) Upon receipt of contractor's subcontracting plan, the contracting officer shall submit a copy of the plan to the ADSADBU and installation SADBUs for advice and recommendations. The ADSADBU and installation SADBUs shall submit comments to the contracting officer within 7 working days after receipt. The contracting officer shall submit the final plan to the ADSADBU and the installation SADBUs, prior to acknowledging acceptance to the contractor.

(iii) After discussions, if plans are still scored 70 points or fewer and are determined acceptable, the rationale and determination shall accompany the plan that is submitted to the ADSADBU and the installation SADBUs. Should the contracting officer find it necessary to make changes to AFAR, Appendix CC Evaluation Guide and Scoring System, a modification request and rationale for the request shall be submitted through the installation SADBUs to the ADSADBU for PARC approval. The request shall be submitted in a time frame which allows for at least a 10 working day review by the PARC.

**SUBPART 19.8--CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)****19.803 Selecting acquisitions for the 8(a) Program.**

(a) Each installation SADBUs specialist shall respond directly to general search letters from SBA. A copy of the search letter and the response shall be immediately provided to the ADSADBU.

(b) Each installation SADBUs specialist shall immediately provide a copy of SBA requests for a specific requirement and the coordinated response of the contracting officer and the SADBUs specialist to the ADSADBU.

(c) Where a number of requirements are being offered to SBA for planning purposes, SADBUs specialists shall identify the requirements to SBA. A copy of that list shall be immediately provided to the ADSADBU.

**19.804 Evaluation, offering, and acceptance.****19.804-2 Agency offering.**

(a) The installation SADBUs specialist shall provide a copy of the letter which notifies the SBA of an agency offering to the ADSADBU.

(14) Concurrently with the submission to the contracting officer and the local competition advocate, the installation SADBUs specialist shall provide a copy of correspondence regarding noncompetitive 8(a) offerings with a total estimated value above the thresholds in FAR 19.805-1(a)(2) to the ADSADBU.

PART 19--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

19.808 Contract negotiation.

19.808-1 Sole source.

(a) Prior to withdrawal, the contracting officer shall immediately notify the installation SADBUs specialist of the intent to proceed with the acquisition without further regard to the 8(a) procedures. Within 1 day of contracting officer notification, the installation SADBUs specialist shall notify the ADSADBU of the intent to proceed. A copy of the withdrawal of the 8(a) commitment shall be documented and a copy provided to the installation SADBUs and the ADSADBU.

PART 22--APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS  
SUBPART 22.1--BASIC LABOR POLICIES

22.101 Labor relations.

22.101-3 Reporting labor disputes.

All matters pertaining to labor relations which require departmental approval from the HQDA Labor Advisor shall be forwarded through the PARC. (See MDWAI 1.290.)

SUBPART 22.4--LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

22.406 Administration and enforcement.

22.406-13 Semiannual enforcement reports.

A semiannual Report of Labor Standards Enforcement (report control number 1482-DOL-SA) shall be sent to the PARC and must arrive not later than 10 April and 10 October. A written negative statement is required when applicable.

PART 24--PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION  
SUBPART 24.2--FREEDOM OF INFORMATION ACT (FOIA)

24.202 Policy.

(a) Each DOC shall appoint a contracting FOIA coordinator and an alternate in writing. The coordinator shall ensure that AFARS 24.202 and AR 25-55 guidance is followed.

(b)(i) Packages required to be submitted to the initial denial authority (PARC) shall be tabbed appropriately.

**PART 32--CONTRACT FINANCING**  
**SUBPART 32.9--PROMPT PAYMENT**

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**32.904 Responsibilities.**

The chief of the contracting office shall establish an effective internal control system to implement Office of Management and Budget Circular A-125, FAR subpart 32.9, and DFARS 232.9. The system shall include provisions for receiving and accepting, invoice processing, monitoring the causes of interest penalties, and taking necessary corrective or disciplinary action. The PARC will monitor the system effectiveness periodically.

**SUBPART 32.10--PERFORMANCE-BASED PAYMENTS**

**32.1006 Agency approvals.**

The authority to approve use of performance-based payments is delegated to the chief of the contracting office.

**PART 33--PROTESTS, DISPUTES, AND APPEALS**  
**SUBPART 33.1--PROTESTS**

**33.102 General.**

**33.102-100 Policy.**

(a) Protests shall be resolved at the lowest level possible. Denials shall be approved at a level not lower than the PARC. This authority is not delegable. The use of alternative disputes resolution (ADR) techniques is encouraged.

**33.103 Protests to the agency.**

(b) (1) The DOC shall notify the PARC of a protest within 1 day.

(c) The contracting officer shall coordinate with the legal office prior to using ADR techniques.

(f) The contracting officer must obtain written approval from the DOC prior to award when a protest is unresolved.

**33.104 Protests to General Accounting Office (GAO).**

(a) (3) The DOC shall notify the PARC of a protest within 1 day.

(4) (i) The report shall be coordinated with the PARC 3 days prior to submission to the chief trial attorney and include protest letter, contracting officer's signed statement, and legal opinion.

(b) (1) The contracting officer shall submit the determination and finding (D&F) and approval request to the PARC. Include all information at AFARS 33.104(b).

(c) (2) The contracting officer shall send the approval request and D&F to the PARC, and comply with AFARS 33.104(b) and (c) and MDWAI.

(g) The DOC shall notify the PARC within 35 days of receipt of the GAO recommendation if it will not be implemented within 60 days of receipt. Prior to appealing a GAO decision, the PARC shall be notified in writing of the legal or factual errors warranting a reversal or modification of its decision.

**33.190 Reporting and analysis of bid protests.**

**33.190-1 Bid Protest Action Report.**

Copies shall be furnished to the PARC upon release.

**33.2--DISPUTES AND APPEALS**

**33.211 Contracting officer's decision.**

Copies of the following documents shall be furnished to the PARC: claim letter, contracting officer's final decision, legal opinion.

PART 36--CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS  
36.000 Scope of part.

Contracting officers shall use the guidance at MDWAI Appendix C when contracting for construction.

PART 37--SERVICE CONTRACTING  
SUBPART 37.1--SERVICE CONTRACTS--GENERAL

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37.102 Policy.

37.102-100 Honorariums.

All honorarium fees, such as for an appearance, speech, or article, in excess of \$500 must be approved by the Vice Chief of Staff, Army. The installation commander shall submit the procurement request to the MDW Commander for review. All requests submitted for approval shall itemize all anticipated expenses. The requests shall be submitted through the PARC. These payments are subject to the provisions of the Defense Finance and Accounting Service Indianapolis Center (DFAS-IN) Regulation 37-1, Finance and Accounting Policy Implementation, paragraph 20-179.

**PART 41--ACQUISITION OF UTILITY SERVICES**  
**SUBPART 41.2--ACQUIRING UTILITY SERVICES**

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**41.201 Policy.**

Procedures to be followed when contracting for utility services are specified in AR 420-41, Acquisition and Sales of Utility Services. Contracts for purchase of utilities are not binding until approved by the Army Power Procurement Officer (APPO) representative. Send original and two copies of contracts to Department of the Army, U.S. Army Engineering and Housing Support Center, ATTN: CEHSC-C, Fort Belvoir, VA 22060-5580.

**PART 42--CONTRACT ADMINISTRATION**

**SUBPART 42.3--CONTRACT ADMINISTRATION OFFICE FUNCTIONS**

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**42.302 Contract administration functions.**

(a) (31) The contracting officer, in conjunction with the requiring activity, shall ensure the preparation of a formal written plan containing procedures to evaluate contract performance for all contracts. Refer to AFARS Appendix BB-400 and the Office of Federal Procurement Policy Pamphlet #4, "A Guide for Writing and Administering Performance Statements of Work for Service Contracts."

**SUBPART 42.15--CONTRACTOR PERFORMANCE INFORMATION**

**42.1503 Procedures.**

(c) The DOC shall establish and maintain central files for contractor performance information pending access to the central Army past performance database.

**PART 53--FORMS****53.90--STANDARD ARMY FORMATS****53.90-100 General.**

This subpart contains standard formats for specific actions, which may be tailored, as appropriate.

**53.90-101 Request for Solicitation Review format.****REQUEST FOR SOLICITATION REVIEW**

THROUGH:

TO:

SUBJECT: \_\_\_\_\_

SOLICITATIONNUMBER: \_\_\_\_\_

DATE OF ISSUANCE: \_\_\_\_\_

CLOSING DATE: \_\_\_\_\_

1. Description, including history, period of performance, contract type \_\_\_\_\_

## 2. Summary information

a. Type of action: ☐ Supply ☐ Service ☐ Construction  
Other \_\_\_\_\_

b. Estimated dollar value: \_\_\_\_\_ 1

c. ☐ Competitive ☐ Sole source ☐ Restricted ☐ 8(a)

## 3. Applicable supporting documents

- ☐ Solicitation, with all attachments and exhibits
- ☐ Comments of review panel
- ☐ Surveillance Plan (See AFARS Appendix BB.)
- ☐ Legal review
- ☐ J&A, if sole source
- ☐ Funding document
- ☐ Government estimate
- ☐ Other documents

CONTRACTING OFFICER SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

Estimate dollar value and enter appropriate range, such as less than \$5 million, \$5-15 million, \$15-20 million, and so on.

PART 53--FORMS

53.90-102 Request for Business Clearance format.  
REQUEST FOR BUSINESS CLEARANCE

THROUGH:

TO:

SUBJECT:

1. In accordance with MDWAI 1.602-100, I request review of documentation enclosed to:

- ☐ enter into negotiations (sole source)
- ☐ award without discussions (competitive)
- ☐ request best and final offers (competitive)

2. Summary information:

a. Type of action: ☐ Supply ☐ Service ☐ Construction ☐ Other

b. Anticipated dollar value: \_\_\_\_\_<sup>2</sup>

c. Solicitation number \_\_\_\_\_

Issue date \_\_\_\_\_ Amendments \_\_\_\_\_

d. Contract specialist \_\_\_\_\_

Phone \_\_\_\_\_ E-Mail \_\_\_\_\_ FAX \_\_\_\_\_

3. Applicable supporting documents:

- ☐ Contract File Index (MDW Form 17-E)
- ☐ Source selection documents
- ☐ Solicitation, amendments, attachments, and exhibits
- ☐ Board comments
- ☐ Legal review
- ☐ Funding document
- ☐ POM, if applicable
- ☐ Proposals
- ☐ Audit reports or other field pricing reports
- ☐ PNM, if award without discussions
- ☐ Request for BAFOs

<sup>2</sup> Estimate dollar value and enter appropriate range, such as less than \$5 million, \$5-15 million, \$15-20 million, and so on.

**PART 53--FORMS**

4. If noncompetitive, list significant issues for negotiation, not including those directly involving pricing. If competitive, list any unresolved deficiencies in the offeror's proposal and how the negotiation team intends to resolve them, and any unusual terms or deviations requested by the offeror, such as FAR deviations.

5. If competitive, list any terms and conditions which are subject to change by the BAFOs and details concerning how the BAFO request deals with unresolved deficiencies in the proposals.

6. Other pertinent information, as listed below:

7. CONTRACTING OFFICER: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ROUTING SYMBOL: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTING OFFICER SIGNATURE

\_\_\_\_\_  
DATE

PART 53--FORMS

53.90-103 Request for Award Clearance (RAC) format.

REQUEST FOR AWARD CLEARANCE

THROUGH:

TO:

SUBJECT:

1. In accordance with MDWAI 1.602-100, I request review of award contract number \_\_\_\_\_, with an anticipated award value of \_\_\_\_\_. This contract implements the request for business clearance dated \_\_\_\_\_.

2. Contract specialist \_\_\_\_\_ Phone \_\_\_\_\_  
E-Mail \_\_\_\_\_

3. Applicable supporting documents:

- ☐ Negotiated award document
- ☐ PNM
- ☐ DD Form 350, Individual Procurement Action Report
- ☐ Board comments including legal review
- ☐ Funding document
- ☐ Certificate of Current Cost or Pricing Data
- ☐ Other pertinent documentation, as listed below:

4. The award document implements the above business clearance issues and strategy, the POM, and the PNM, with the exception of the following: (If no issues require explanation, write "N/A." If significant issues arose during negotiations which are not addressed in the PNM, identify them along with the offeror's position, the Army position, and the final agreement.)

5. CONTRACTING OFFICER: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ROUTING SYMBOL: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTING OFFICER SIGNATURE

\_\_\_\_\_  
DATE

**PART 53--FORMS**

53.90-104 Legal Review format.

REQUEST FOR LEGAL REVIEW

MEMORANDUM FOR THE OFFICE OF THE CHIEF ATTORNEY      DATE

SUBJECT: (Include IFB, RFP, award numbers when applicable.)

COMMENTS:

ACTION OFFICER NAME/SIGNATURE, TELEPHONE      DATE

CONTRACTING OFFICER NAME/SIGNATURE, TELEPHONE      DATE

MEMORANDUM FOR      DATE

FROM: OFFICE OF THE CHIEF ATTORNEY

I hereby    ☐ approve for legal sufficiency.  
             ☐ approve for legal sufficiency subject to the following:  
             ☐ approve except as noted below:  
             ☐ disapprove for the following reasons:

LEGAL ADVISOR NAME/SIGNATURE, TELEPHONE      DATE

**PART 53--FORMS**

**53.90-105 Contracting Officer Appointment Request (MDW Form 10-R-E).**

This form may be accessed electronically using PerForm PRO Plus or copies may be reproduced from the hard copy at the back of this regulation.

**53.90-106 Contract Distribution Record format.**

**CONTRACT DISTRIBUTION RECORD**

DOCUMENT BELOW REQUIRES DISTRIBUTION:

DATE TO DISTRIBUTION \_\_\_\_\_ DATE DISTRIBUTED \_\_\_\_\_

CONTRACT/PO NO \_\_\_\_\_ ORDER NO \_\_\_\_\_ MOD NO \_\_\_\_\_

PROJECT \_\_\_\_\_

CONTRACT SPECIALIST \_\_\_\_\_ PHONE \_\_\_\_\_

DISTRIBUTION LIST (Fill in addresses):

1. CONTRACT FILE (ORIGINAL)
2. REQUIRING ACTIVITY ADDRESS:
3. FINANCE ADDRESS:
4. CONTRACTOR ADDRESS:

SUPPLEMENTAL DISTRIBUTION INSTRUCTIONS:

☐ DD 350

☐

OTHER: \_\_\_\_\_

REMARKS:

DISTRIBUTED BY: \_\_\_\_\_

NAME

DATE: \_\_\_\_\_

**PART 53--FORMS****53.90-107 Contract File Index (MDW FM 17-R-E).**

This form may be accessed electronically using PerForm PRO Plus or it may be reproduced from the hard copy at the back of this regulation.

**53.90-108 Format for a Justification Review Document for Other Than Full and Open Competition.**

Since the PARC is also the SCA for MDW, and the final approval authority for J&As between \$500,000 and \$10,000,000, only one signature is required. The signature and text cited at AFARS 53.9004 shall state, "Principal Assistant Responsible for Contracting/Special Competition Advocate." For J&A's requiring approval above the MDW SCA, the signature blocks for the PARC and SCA shall be combined.

**53.90-109 Contracting Coordination Sheet for Economy Act Actions.**

**U. S. ARMY MILITARY DISTRICT OF WASHINGTON  
ECONOMY ACT ACTION COORDINATION SHEET**

TO: (Insert requiring activity here.)                      DATE:

ACTION OFFICER: (Insert chief of the contracting office here.)

SUBJECT: Request for Economy Act Coordination

DESCRIPTION AND ESTIMATED DOLLAR VALUE OF REQUIREMENT:

SERVICING ACTIVITY: (Insert name of servicing federal agency.)

SERVICING ACTIVITY \_\_\_ IS \_\_\_ IS NOT REQUIRED TO COMPLY WITH THE FEDERAL ACQUISITION REGULATIONS.

FUNDING DOCUMENT \_\_\_ IS \_\_\_ IS NOT PROVIDED.

D&F [Must be signed by either an SES/general officer who is a commander or director of requesting activity or by the Army Senior Procurement Executive. (See AFARS 17.503(c)(ii) and (iii).]

I \_\_\_ concur \_\_\_ do not concur. (For nonconcurrence, see comments.)

COMMENTS:

\_\_\_\_\_  
DIRECTOR OF CONTRACTING

APPENDIX A  
BUSINESS CLEARANCE GUIDE

---

**PART 1--BUSINESS CLEARANCE PROCEDURES****A-100 Purpose.**

This appendix establishes guidance for the preparation of business clearances (MDWAI 1.602-102), Prenegotiation Objective Memorandums (POM), and Price Negotiation Memorandums (PNM).

**A-101 Procedures.**

(a) The director of contracting (DOC) shall establish a business clearance review panel using formal or informal procedures. "Formal" involves acquisition personnel briefing the panel as a group. "Informal" is defined as review without the panel members convening as a group. The contracting officer shall consider formal review procedures under the following circumstances:

- (1) The contract value is estimated to exceed \$1,000,000.
- (2) A new contract follows a contract involving poor performance or items of poor quality by the previous contractor.
- (3) The proposals substantially differ from either the previous costs or from the government estimate.

(b) For documents requiring PARC review, PARC staff members shall review and furnish recommendations.

**A-102 Solicitation reviews.**

(a) Submit one copy of the contract file index and the following documents for review with the solicitation, as applicable:

- (1) All attachments and exhibits;
- (2) Surveillance plan (see AFARS Appendix BB);
- (3) Source Selection Evaluation Plan;
- (4) Award fee plan for all cost-plus-award-fee solicitations;
- (5) Legal review and concurrence;
- (6) Review panel minutes or comments, along with the contracting officer's response;
- (7) J&A, if sole source.
- (8) Funding document and Government estimate;
- (9) Preinvitation notice, and
- (10) Contracting officer's determination to require performance and payment bonds in other than a construction contract, and any other required determinations.

(b) Individual deviation requests for solicitation review shall be submitted to the PARC in writing with supporting rationale.

**APPENDIX A  
BUSINESS CLEARANCE GUIDE**

---

**A-103 Request for Business Clearance (RBC).**

(a) When submitting an RBC for review, supporting documentation shall be furnished as applicable. When in doubt, the contracting officer shall consult with the reviewing authority's staff. The RBC shall contain the information at MDWAI 53.90-102.

(b) For noncompetitive acquisitions, negotiations shall not be entered into prior to obtaining business clearance review. POMS are required.

(c) If competitive, the following applies:

(1) When seeking review of a request for BAFOs, the reviewing personnel may review the official contract file on-site. If review is off-site, include the request cover letter and any documents referenced, the competitive range determination, technical evaluations, evidence of legal review, DCAA audit reports, other field pricing reports, and other applicable pricing documents.

(2) When requesting review of an award without holding discussions, furnish the apparent successful offeror's proposal, the technical evaluation, and the PNM or, for commercial items, the contracting officer's statement giving the basis of the fair and reasonable price determination or other supporting documentation, as applicable. (See MDWAI 1.602-103.)

(d) If competitive, include the following in the request for business clearance:

(1) Unresolved proposal deficiencies and how the negotiation team intends to resolve them;

(2) Unusual terms and conditions or deviations requested by the offeror, such as FAR deviations;

(3) Terms and conditions subject to change by the BAFOs.

(4) Details concerning how the BAFO request deals with unresolved deficiencies in the proposals.

**A-104 Request for Award Clearance (RAC).**

Contracting officers may use the RAC format at MDWAI 53 when requesting review of an award based on the prices and the terms and conditions negotiated, as clearly documented in the PNM for noncompetitive acquisitions. Award clearance is normally not required for competitive acquisitions. However, contracting officers may obtain assistance in resolving contractual issues by requesting award reviews under certain unusual circumstances, such as when significant issues remain unresolved after receipt of BAFOs or when anticipated price competition did not occur.

**APPENDIX A  
BUSINESS CLEARANCE GUIDE**

---

**PART 2--PRENEGOTIATION OBJECTIVE MEMORANDUM**

(a) The acquisition team shall meet to ensure that everyone fully understands the proposal prior to entering into discussions with the offeror(s) and prior to establishing a prenegotiation objective. They should identify any areas requiring clarification, fact finding, and discussion with the offeror(s).

(b) The contents of the POM include:

- (1) List of the acquisition team members;
- (2) A description of the user's needs and future plans;
- (3) A description of the government's requirement including specific items to be purchased and specific tasks to be performed;
- (4) Key requirements and technical issues, such as period of performance, required delivery dates, or other concerns.
- (5) All significant issues for negotiation, not including those directly involving pricing and documentation of the contractor's proposed position for each element under discussion, the Army objective, and anticipated issues requiring resolution prior to award;
- (6) Identify special terms and conditions, such as warranties, liquidated damages, and conflict of interest clauses;
- (7) Pricing information:
  - (i) Purchase history such as previous prices paid, dates, and previous contract numbers and contractors. Where historical costs differ substantially from the instant requirement, the POM shall explain the differences in terms of quantities or tasks performed;
  - (ii) Special pricing terms and conditions, such as economic price adjustments or undefinitized pricing arrangements, and
  - (iii) Pricing information such as the offeror's proposed position, field pricing reports or audits, the Government's negotiation objective and significant audit, field pricing, or other advisory findings or recommendations used or not used in the development of the Government objective.

**PART 3--PRICE NEGOTIATION MEMORANDUM**

The PNM shall incorporate or reference the POM, which contains the details concerning the negotiation positions. Any revisions to the proposed objectives described in the POM at the time of business clearance review must be addressed in the PNM. Refer to FAR and AFARS 15.808, DFARS 215.808, and MDWAI 15.808 for further guidance.

APPENDIX B  
RATIFICATION GUIDANCE

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**B-100 Ratification Procedures.**

1. The individual who made the unauthorized commitment prepares the below documentation:

a. A signed statement with the following:

(1) A description of the circumstances surrounding the unauthorized commitment;

(2) An explanation of why normal procurement procedures were not followed;

(3) A description of the bona fide Government requirement;

(4) A description of the benefit received by the Government, and

(5) All of the relevant documents, to include orders, invoices or other evidence of transactions.

2. The immediate supervisor of the individual then forwards the statement through channels to the individual's unit commander or agency head or the senior staff officer designated for this purpose. If the individual is an employee of the installation, the installation commander is the designated individual.

3. The unit commander or agency head or senior staff officer designated for this purpose concurs or nonconcurs that ratification of the commitment is necessary, with an explanation for nonconcurrence. Then, that individual forwards the documentation at 1(a) to the chief of the contracting office along with the items listed below:

a. Verification of the accuracy and completeness of the documentation;

b. Description of the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action to be taken;

c. A complete purchase description and funding document, such as a DA Form 3953, committing the exact amount of funds required. The funding document must include a statement that funds were available at the time the unauthorized commitment was made.

4. Upon receipt of an unauthorized commitment package, the chief of the contracting office assigns it to a contracting officer.

APPENDIX B

RATIFICATION GUIDANCE

---

5. The contracting officer shall then proceed as follows:

a. Prepare a letter to the firm involved which states that an unauthorized commitment occurred, that the item or service was provided by the firm without authorization by an individual with the authority to enter into that agreement on behalf of the Government, and that this should not be repeated in the future.

b. Perform a review in accordance with AFARS 1.602-3-90(c).

c. Prepare a written summary of facts to include the information at FAR 1.602-3(c) and AFARS 1.602-3-90(c)(2).

d. Verify that sufficient funds are available and were available at the time the unauthorized commitment was made to pay for the acquisition.

e. Forward the above documentation to legal through the chief of the contracting office in accordance with MDWAI 1.602-3-90(d), and request a legal opinion as to whether the acquisition is ratifiable under AFARS 1.602-3, or whether the matter should be processed under FAR 50 and DoD FAR Supplement 250, Extraordinary Contractual Actions, processed as a General Accounting Office claim, or otherwise handled.

6. The contracting officer shall forward all documentation above through channels to the appropriate approval authority for review. (See AFARS and MDWAI 1.602-3.)

7. The approval authority shall approve or direct other disposition of the ratification. If approved, the file shall be forwarded to the appropriate contracting office for issuance of an award document for payment purposes.

8. The contracting officer shall then forward a copy of the complete ratification file, with a copy of the award document, to the unit commander, agency head, or senior staff officer designated for this purpose.

APPENDIX C  
CONSTRUCTION GUIDE

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**PART 1--PROCEDURES**

**C-100 Specifications.**

The contracting officer shall obtain a list of materials requiring approval from the Directorate of Public Works (DPW) with the requisition package. The list shall be included in the solicitation as an attachment. All materials and equipment requiring approval shall be submitted by the contractor to the contracting officer, in accordance with FAR clause 52.236-5, Material and Workmanship. The contracting officer shall establish suspenses on actions taken on the submittals and retain suspense copies for follow-up action as needed.

**C-101 Schedules and reports.**

(a) Contract Progress Schedule. The contract progress schedule shall contain a list of the major work elements, the order in which the contractor proposes to perform the work, and the percentage scheduled for completion during that period. This satisfies the requirements at FAR clause 52.236-15, Schedules for Construction Contracts. The contracting officer, with the engineer, shall review the proposed progress schedule, especially the percentages assigned to each work element to avoid overstatements during early stages. The original approved schedule becomes a part of the contract file. Duplicate copies shall be given to both the contractor and DPW. If a contract modification causes a change in the progress schedule, the contractor shall submit a revised progress schedule to the contracting officer for review and approval.

(b) Contract Progress Report. The contractor and government inspector shall each provide a contract progress report to identify actual progress under the contract to satisfy the requirement for periodic progress reporting. The report is required as directed by the contracting officer, for example, biweekly.

(1) The contracting officer shall resolve any significant variances prior to posting the percentage completed to the contract progress schedule. Job site visits shall be made to validate the contractor's progress.

(2) The date of project completion shall be entered on the contract progress schedule and filed, together with all supporting documents, in the official contract file.

**CONTRACTING OFFICER APPOINTMENT REQUEST***(MDW REGULATION 715-8)*1. NAME *(Last, First, MI)*

2. POSITION

3. GRADE

4. AUTHORITY

5. INSTALLATION

**PART I - PROPOSED DUTIES AS CONTRACTING OFFICER**

6. BRIEF DESCRIPTION OF PROPOSED TYPES OF CONTRACTUAL ACTION

7. RECOMMENDED LIMITATIONS OF CONTRACTING AUTHORITY

**PART II - EDUCATION / TRAINING**

| ACE MANDATORY COURSES COMPLETED |                                   | YES | NO | HRS | YRS | DEGREE |
|---------------------------------|-----------------------------------|-----|----|-----|-----|--------|
| 8.                              | LEVEL I                           |     |    |     |     |        |
| 9.                              | LEVEL II                          |     |    |     |     |        |
| 10.                             | LEVEL III                         |     |    |     |     |        |
| 11.                             | HIGH SCHOOL GRADUATE              |     |    |     |     |        |
| 12.                             | HOURS BUSINESS / BUSINESS RELATED |     |    |     |     |        |
| 13.                             | COLLEGE COMPLETED                 |     |    |     |     |        |

**PART III - EXPERIENCE**

14. YEARS IN GOVERNMENT CONTRACTING

15. PREVIOUS CONTRACTING OFFICER EXPERIENCE / WARRANT LIMITATION

16. NOMINEE'S SIGNATURE

17. DATE

18. REQUESTING OFFICIAL'S SIGNATURE

19. DATE

REMARKS

## (MDW REGULATION 715-8)

| TAB NO. | SECTION   | TAB NO. | SECTION  |
|---------|---|---------|--|
| ////    | <b>A- PRE SOLICITATION DOCUMENTS</b>                        | ////    | <b>D- POST AWARD DOCUMENTS</b>                           |
|         | PROJECT DOCUMENTS, PR, IGCE, CDRL, SPECS, SOW, SSP/TEC EVAL |         | NOTICE OF AWARD, CONGRESSIONAL NOTICES                   |
|         | SECURITY DOCUMENTATION, DD FORM 264                         |         | SYNOPSIS   |
|         | NOTICE OF INTENT, SF 98                                     |         | PROTEST AFTER AWARD                                      |
|         | SMALL BUSINESS COORDINATION, 8A CORRESPONDENCE, OTHER       |         | PRE-PERFORMANCE CONFERENCE                               |
|         | D&F (ALL TYPES), JSA, DMA                                   |         | INSURANCE CERTIFICATE                                    |
|         | PRE-INVITATION NOTICE/RESPONSES                             |         | PAYMENT AND PERFORMANCE BONDS CHECKLIST                  |
|         | ADVANCE CONTRACTING PLAN/MILESTONES                         |         | DD FORM 350  |
|         | BIDDER'S MAILING LIST                                       |         | NOTICE TO PROCEED/CONTRACT RECEIPT                       |
|         | SYNOPSIS/SOURCES SOUGHT                                     |         | DEBRIEFING   |
|         | PRE-BID CONFERENCE/NOTICE/MINUTES, SITE VISIT               |         | DELIVERY ORDERS MODIFICATIONS                            |
|         | SOLICITATION REVIEW BOARD/HQ MDW COMMENTS                   |         | MISTAKE IN BID AFTER AWARD                               |
|         | SJA REVIEW  |         | CONTRACT TRANSFER MEMORANDUM                             |
|         | IFB/RFP (INCLUDING AMENDMENTS)                              |         | MISCELLANEOUS CORRESPONDENCE                             |
|         | MISCELLANEOUS CORRESPONDENCE                                |         |  |
|         | <b>B-SOLICITATION/EVALUATION DOCUMENTS</b>                  |         | <b>E-CONTRACT ADMINISTRATION</b>                         |
|         | ABSTRACT OF BIDS/PROPOSAL                                   |         | COR/QAE TRAINING APPOINTMENT                             |
|         | UNSUCCESSFUL AND NO BID PROPOSALS                           |         | APPROVED QAE/COR INSPECTION CHECKLIST                    |
|         | LATE PROPOSALS/BIDS   |         | APPROVED QUALITY ASSURANCE PROGRAM                       |
|         | VERIFICATION OF BID/MISTAKE IN BID/WITHDRAWAL OF BID        |         | LIQUIDATED DAMAGES ASSESSMENT DATA                       |
|         | PRICING AND AUDIT REPORTS                                   |         | SITE VISITS  |
|         | TECHNICAL EVALUATION  |         | QAE/COR REPORTS, CONTRACTOR DISCREPANCY REPORTS          |
|         | PRE BCM/BOARD/HQ MDW COMMENTS                               |         | CONTRACT PROGRESS MEETINGS                               |
|         | NEGOTIATION/POST BCM/BOARD/HQ MDW COMMENTS                  |         | DELINQ DOC /ACTIONS/RESPONSES (CURE NOTICES, CAUSE TERM) |
|         | BEST AND FINAL OFFER  |         | WARRANTY CALL DOCUMENTATION                              |
|         | PROTEST PRIOR TO AWARD                                      |         | MISCELLANEOUS CORRESPONDENCE                             |
|         | SUCCESSFUL BID/PROPOSAL/BID BOND                            |         |  |
|         | LETTERS TO UNSUCCESSFUL BIDDERS                             |         | <b>F-LABOR AND PAYROLL DATA</b>                          |
|         | CERTIFICATION OF COST AND PRICING DATA                      |         | LABOR INVESTIGATION CORRESPONDENCE                       |
|         | RESPONSIBILITIES CHECKS/INQUIRIES                           |         | APPRENTICE CERTIFICATIONS                                |
|         | REJECTED BID CORRESPONDENCE                                 |         | PAYROLLS/DOCUMENTATION                                   |
|         | IFB/RFP CANCELLATION NOTICE                                 |         | LABOR CHECKS   |
|         | REPRESENTATIONS AND CERTIFICATIONS OF SUCCESSFUL BIDDERS    |         | SUBCONTRACTOR DOCUMENTATION, DD FORM 1566                |
|         | CORRECTIVE ACTION TO FOSTER COMPETITION IF ONLY ONE BID IS  |         | MISCELLANEOUS CORRESPONDENCE                             |
|         | MISCELLANEOUS CORRESPONDENCE                                |         |  |
|         | <b>C-AWARD/CONTRACT</b>                                     |         | <b>G-PERFORMANCE AND PAYMENTS</b>                        |
|         | REQUEST/REPORT OF PRE-AWARD SURVEY                          |         | FINAL ACCEPTANCE/CONTRACT COMPLETION                     |
|         | DETERMINATION OF CONTRACTOR RESPONSIBILITY                  |         | COMPLETED/SUPERSEDED PROGRESS REPORT                     |
|         | SBA CERTIFICATION OF COMPETENCY                             |         | PRE-FINAL PAYMENT CHECKLIST                              |
|         | CONTRACT REVIEW BOARD/SJA/HQ MDW COMMENTS                   |         | ASSIGNMENT/RELEASE OF CLAIMS                             |
|         | CONTRACT/APPROVALS  |         | RECEIVING REPORTS/INVOICES/PAYMENT VOUCHERS/FUNDS        |
|         | TRANSMITTALS  |         | CLAIMS/EQUITABLE ADJUSTMENTS                             |
|         | CONTRACT/APPROVALS  |         | CONTRACTOR PROGRESS REPORTS                              |
|         | MODIFICATION AND SUPPORTING DOCUMENTS                       |         | GOVERNMENT PROGRESS REPORTS                              |
|         | CONTRACT DISTRIBUTION                                       |         | MISCELLANEOUS CORRESPONDENCE                             |
|         | MISCELLANEOUS CORRESPONDENCE                                |         |  |
|         |   |         | <b>H-DRAWING/SUBMITTALS</b>                              |
|         |   |         | DRAWINGS/CURRENT   |
|         |   |         | DRAWINGS/SUPERSEDED                                      |
|         |   |         | MATERIAL SUBMITTED                                       |
|         |   |         | MISCELLANEOUS CORRESPONDENCE                             |